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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

(Division Bench)

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI SATISH K. AGNIHOTRI, J.

MISC. APPEALNO.460 OF 2005

Appellants

(1) Smt. Poonam Bai, Aged 40 years
W/o Rajju @ Rajkumar Vishvakarma

(2) Rajju @ Rajkumar Vishvakarma
Aged 48 years, S/o late Lalaram
Vishvakarma

Both R/o Amapara, Near Bazar,
P.S. Azad Chowk, Raipur (CG).

VERSUS

Respondents

(1) Santosh Singh, S/o Darshan Singh,
Aged 35 years, Occupation Truck Driver,
R/o Sarona Plant, P.S. Amanaka,
Tahsil & Distt: Raipur (CG).

(2) Ashok Bhai Sorathia
S/o Veljl Bhai Sorathia,
Owner of the truck,
R/o Sarona Plant, P.S. Amanaka,
Tahsil & Distt: Raipur (CG).

(3) The National Insurance Co. Pvt. Ltd.
Through: Divisional Manager,
Divisional Office, Mobin Mahal,
G.E. Road, Raipur (CG).

Present:

Mr. A.S. Iqbal, learned counsel for the appellants.

ORAL ORDER

(Passed on 28th of November 2005)

The following Order of the Court was passed by

S.R. Nayak, CJ:

The award passed by the MACT is assailed mainly on the ground that instead of applying multiplier 18, wrong multiplier of 16 is

applied for the purpose of determining the loss of dependency. It was also contended that the MACT has taken the income of the deceased at Rs.1,500/- per month for the purpose of assessing loss of dependency. We do not find any merit in both the contentions. The deceased was unmarried and on the date of the accident and demise he was 19 years of age. It is stated that as on the date of the accident, the claimants, i.e. father and mother of the deceased were aged 48 and 44 years, respectively. In the first place we would state that the MACT ought not to have applied multiplier 16. It seems that the MACT taking into account the age of the deceased has determined the multiplier 16. In terms of law, it ought to have taken the average age of the parents to determine appropriate multiplier for the purpose of assessing loss of dependency. In that view of the matter, there is absolutely no merit in the first contention of the learned counsel. If there is any aggrieved party, it is the other side with regard to the application of wrong multiplier.

(2) Although the appellants-claimants claimed that the deceased was working as a cook and earning monthly income of Rs.5,000/-. The claim put forth by the claimants remained as claim only without any proof. The claimants have not produced any evidence to accept the self-serving statement to prove that the deceased was working as a cook and he was earning monthly income of Rs.5,000/-. In the absence of any legal evidence, we cannot take any exception to the MACT in taking the income of the deceased at notional level. The appeal is devoid of merit. It is accordingly dismissed, however, with no costs.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge